IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No. 1369 of 1984

For Approval and Signature:

HONOURABLE MR.JUSTICE KS JHAVERI

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MOHMEDBHAI RASULBHAI VORA & 1 - Appellant(s)
Versus
DHULJIBHAI DEVKARAN MENA & 3 - Defendant(s)

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Appearance :
MR RAJNI H MEHTA for Appellant(s) : 1 - 2.
None for Defendant(s) : 1 - 2.
MR PV NANAVATI for Defendant(s) : 3 - 4.

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CORAM : HONOURABLE MR.JUSTICE KS JHAVERI

Date : 24/07/2006

ORAL JUDGMENT

1. By way of this appeal under Section 110-A of the Motor Vehicles Act, 1939, the original opponent nos. 3 & 4 – present appellants have challenged the judgement and decree dated 20.03.84 passed by the Motor Accident Claims Tribunal, Kheda in M.A.C.T Case No. 175 of 1981 whereby the Tribunal directed both the appellants to jointly pay a compensation of Rs. 50,000/- with interest at the rate of 6% per annum and proportionate costs.

2. The original claimants being the parents of the

deceased filed a claim petition claiming for Rs. 83,000/- in respect of the vehicular accident while the deceased was travelling on 13.08.80 from Kheda to Ahmedabad in rickshaw no. GRS 4147. At that time, a matador being driven by the original respondent no.3 in a rash and negligent manner dashed with the said rickshaw thereby killing the son of the claimants. The Tribunal after hearing the parties passed the aforesaid award.

3. Learned counsel for the appellants has contended that the Tribunal has erred in quantifying the award by applying multiplier of 15 when the parents are aged 60 years and 50 years. He has further contended that the Tribunal also erred in quantifying the income of the deceased at Rs. 400/- per month and the same calls for interference.

4. Heard learned counsel for the parties. I have gone through the award of the Tribunal and the materials placed on record. The Tribunal in para 25 of the award the Tribunal has rightly assessed the dependency loss incurred by the original claimants at Rs. 3000/- per annum. However, the Tribunal without taking into consideration the fact that the original claimants were 60 and 50 years old, has applied a multiplier of 15 which

in my view is excess. Considering the age of the deceased and the claimants alongwith the relevant decisions on this aspect, it would be appropriate in the instant case to apply a multiplier of 8. In that view of the matter, the amount to be awarded to the claimants shall sum up to Rs. 24,000/-(3000 x 8) instead of Rs. 45,000/-.

5. In the premises aforesaid, the appeal is partly allowed. The original claimants shall be entitled to Rs. 29,000/- towards the entire claim amount which shall include Rs. 24,000/- towards dependency benefit. The award of the Tribunal is modified accordingly. The amount deposited by the insurance company by way of Fixed Deposit, if any, shall be refunded to the insurance company. No order as to costs.

(K.S. JHAVERI, J.)

Divya//